

REMARKS

By the present amendment, claims 1-6 have been amended to obviate the examiner's objections thereto and/or to further clarify the concepts of the present invention. Among other things, independent claim 2 has been amended to incorporate the subject matter of dependent claim 4. Independent claim 7 has been added, this claim being a combination of the subject matter of prior claims 2 and 5. Entry of these amendments is respectfully requested.

In the Office Action, claims 1 and 4-6 were rejected under 35 USC § 102(e) as being anticipated by the patent publication to Yamaji et al. In making this rejection, it was asserted that the patent publication teaches the entire fluid control apparatus as set forth in the noted claims. Reconsideration of this rejection in view of the above claim amendments and the following comments is respectfully requested.

In response to this rejection, it is to be noted that the subject application has an effective U.S. filing date of April 23, 2002, as of its international filing date, under the provisions of 35 USC § 363. The cited Yamaji et al publication may be prior art under 35 USC § 102(e) as of its U.S. filing date of June 24, 2002. Since this latter date is subsequent to the filing date of the subject application, the cited Yamaji et al patent publication is not an effective reference and thus the rejection is without basis.

For the reasons stated above, withdrawal of the rejection under 35 U.S.C. § 102(e) and allowance of claims 1 and 4-6 over the cited Yamaji et al patent publication are respectfully requested.

Independent claim 2 was rejected under 35 USC § 102(b) as being anticipated by the patent to Lengstorf. In making this rejection, it was asserted that the patent teaches the entire apparatus as set forth in the noted claim, specifically referring to Figure 3 thereof. Reconsideration of this rejection in view of the above claim amendments and the following comments is respectfully requested.

As set forth above, claim 2 has been amended to incorporate dependent claim 4 therein. Inasmuch as the subject matter of dependent claim 4 has not been rejected over the cited Lengstorf patent, it is submitted that this rejection is now moot. Accordingly, withdrawal of the rejection under 35 U.S.C. § 102(b) and allowance of claim 2 as amended over the cited Lengstorf patent are respectfully requested.

Dependent claim 3 was rejected under 35 USC § 103(a) as being unpatentable over the above cited patent publication to Yamaji et al in view of the above cited patent to Lengstorf.

Since the Yamaji et al patent publication is not effective art against the subject application for the reasons discussed above, it is submitted that this rejection must fail for the same reason as the above anticipation rejection over the Yamaji et al publication alone. Accordingly, withdrawal of the rejection under 35 U.S.C. § 103(a) and allowance of claim 3 over the cited patent publications are respectfully requested.

Newly added independent claim 7 is a combination of the subject matter of prior claims 2 and 5. In view of the above, it is submitted that independent claim 7 patentably distinguishes over the cited patent publications.

In view of the foregoing, it is submitted that the subject application is now in condition for allowance and early notice to that effect is earnestly solicited.

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In the event this paper is not timely filed, the undersigned hereby petitions for an appropriate extension of time. The fee for this extension may be charged to Deposit Account No. 01-2340, along with any other additional fees which may be required with respect to this paper.

Respectfully submitted,

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